IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.186 OF 2002

IN

NOTICE OF MOTION NO.4 OF 2001

IN

PARSI MATRIMONIAL SUIT NO.32 OF 1993

Sheriar F. Patel ...Appellant

v/s

Gulshan S. Patel ...Respondent

Mr P.M. Shah for Appellant.

Mr S.D. Mogre for Respondent.

CORAM : D.K. DESHMUKH AND J.H. BHATIA JJ.

DATE : 16TH OCTOBER 2007.

P.C. :-

1. By this appeal, the original plaintiff challenges the order passed by the learned Single Judge of this Court dated 24th October 2001 in notice of motion No.4 of 2001. That notice of motion was taken out by the present appellant in a parsi matrimonial suit which was for divorce filed by the present appellant. At the stage when the suit was for argument, notice of motion claiming following reliefs was taken out :-

> "(a) that this Hon'ble Court be pleased to refer the matter for the reference before the Hon'ble Chief Justice of Mumbai or before the Appeal Court of this Hon'ble High Court, Original Side, Mumbai for considering the issue about the decision of the delegates on the question of fact to be considered as final or the learned Judge presiding in the Special Court decision shall be final;"

. The learned Single Judge, by the impugned order, has found that as per the provisions of the Parsi

Marriage and Divorce Act, the decision of the delegates on the question of fact is final and binding on the learned Judge whereas question of law, interlocutory applications etc. are to be decided by the learned Judge himself. The learned Single Judge has rejected the motion because the appellant - plaintiff could not point out to him the provision of law under which he could have referred the matter either to the Hon'ble Chief Justice or to the Appeal Court. The learned counsel The learned counsel is not able to point out the provision of law under which he is seeking reference to the Hon'ble Chief Justice or the Appeal Court. We see no reason to interfere with the order passed by the learned Single Judge. Appeal is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.

(D.K. DESHMUKH J.)

(J.H. BHATIA J.)